

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

**ORDER**

APPLICATION 14858B

PERMIT 20245

LICENSE \_\_\_\_\_

ORDER CORRECTING THE STATUS OF THE  
OPERATION AGREEMENT FOR NEW MELONES AND  
TULLOCH DAMS AND RESERVOIRS

WHEREAS:

1. Permit 20245 was issued to the U. S. Bureau of Reclamation on July 18, 1988 pursuant to Application 14858B.
2. An "Agreement and Stipulation" dated August 30, 1988 was executed by the Permittee, Oakdale Irrigation District and South San Joaquin Irrigation District. Therefore, Condition 16 of the permit should reflect this change.
3. The State Water Resources Control Board has determined that said correction will not initiate a new right nor operate to the injury of any other lawful user of the water and that good and sufficient cause has been shown for said correction.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 16 of this permit shall be amended to read as follows:

16. This permit shall be subject to the "Agreement and Stipulation" dated August 30, 1988 and executed by the Permittee, Oakdale Irrigation District and South San Joaquin Irrigation District. The agreement governs the diversion and release of water at New Melones and Tulloch Reservoirs for power generation purposes.

Dated: NOVEMBER 08 1988

*Walter G. Pettit*  
Walter G. Pettit, Chief  
Division of Water Rights

STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

## PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20245Application 14858B of U. S. Department of the Interior  
Bureau of Reclamation, Region 22800 Cottage Way, Sacramento, California 95825filed on June 16, 1952, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

## 1. Source:

Stanislaus River

## Tributary to:

San Joaquin River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
SEE ADDENDUM					

Counties of Calaveras, Tuolumne and Stanislaus

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Irrigation	Within the Counties					
Domestic	of Stanislaus, Calaveras					
Municipal	Tuolumne and San Joaquin					
Industrial						
Recreation	Stanislaus and San Joaquin					
Water Quality and	Rivers downstream of					
Fish and Wildlife	New Melones Dam					
Enhancement						

The place of use is shown on map filed with the State Water Resources Control Board.

## ADDENDUM

[illegible]

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 2,250 cubic feet per second to be diverted from November 1 of each year through June 30 of the succeeding year. The maximum amount diverted under this permit shall not exceed 1,000,000 acre-feet per annum. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Complete application of the water to the authorized use shall be made by December 31, 1997. (0000009)
8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)
9. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
10. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.
- The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.
- The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)
11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)
12. Rights under this permit are, and shall be, specifically subject to existing rights determined by the Stanislaus River Adjudication, Superior Court, San Joaquin County dated November 14, 1929, Action No. 16873 with supplemental decrees dated February 24, 1930; March 8, 1934; May 8, 1935; and November 29, 1960, insofar as said adjudicated rights are maintained. (0000023)

13. This permit shall be subject to appropriation by storage upstream from New Melones Reservoir for stockwatering and recreational purposes, provided the individual capacities of reservoirs for such purposes do not exceed 10 acre-feet and the reservoirs are kept free of phreatophytes.

(0460800)

14. Permittee shall comply with the following provisions which are derived from the agreement between permittee and the Calaveras County Water District (CCWD) executed on July 31, 1972 and filed with the State Water Resources Control Board:

a. This permit is specifically subject to the prior rights of the CCWD under appropriations issued pursuant to Applications 11792, 12910, 12911, 12912, 13091, 13092, 13093 and is also subject to the priority of state filed Application 5648 insofar as it pertains to the Stanislaus River, the North Fork of the Stanislaus River and its tributaries for diversion into Calaveras County.

(0000800)

b. The rights acquired under this permit shall be junior to the rights acquired under permits issued pursuant to Applications 18727, 18728, 19148 and 19149 of the CCWD.

(000012)

c. Within the limitations of Federal Reclamation Laws, permittee shall, upon request, negotiate a contract(s) primarily with the CCWD or secondarily, with any appropriate governmental agency, for the sale of water authorized for diversion under this permit that can be economically supplied for reasonable and beneficial uses within Calaveras County.

(0240300)

Inclusion in this permit of certain provisions of this agreement shall not be construed as disapproval of other provisions of the agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit.

(0000024)

15. Permittee shall comply with the following provisions which are derived from the agreement between the permittee and the Tuolumne Regional Water District (TRWD) executed on November 29, 1972 and filed with the State Water Resources Control Board:

a. Any person or entity, including TRWD, may divert and/or impound water from the Stanislaus River or any tributary thereto for reasonable and beneficial use within the TRWD service area and the right to do so, whenever initiated, shall be prior and superior to the rights authorized under this permit.

Use within TRWD service area may be supplied in part by water from the Tuolumne River Basin and to that extent the need for Stanislaus River water shall be decreased correspondingly.

(0000112)

b. This permit shall be subordinate and junior to any present or future appropriation or use of water from the Stanislaus River or any of its tributaries for the generation of hydroelectric power which will aid in financing and the construction of any works to provide water for beneficial uses within TRWD. Such present or future appropriation or use of water shall not include water diverted out of the Stanislaus River watershed solely for the production of power unless such water is returned to the Stanislaus River above New Melones Dam except to the extent that the right to do so exists as of November 29, 1972 in TRWD or any other entity.

(0000112)

c. In the event TRWD or any user within TRWD should desire to purchase water authorized for diversion under this permit as replacement water in order to satisfy other prior rights downstream from New Melones Dam, or for other reasonable and beneficial purposes, permittee shall sell such water to such user or TRWD at prices not exceeding those applicable for such water to other New Melones Unit customers for the use to which TRWD's water will be put.

(0240300)

Inclusion in this permit of certain provisions of this agreement shall not be construed as disapproval of other provisions of the agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit.

(0000024)

16. Permittee shall negotiate an agreement with Oakdale and South San Joaquin Irrigation Districts governing diversion and release of water at New Melones and Tulloch Reservoirs for power generation purposes. If no agreement is reached within two years from the date of this permit, then either the permittee or Oakdale and South San Joaquin Irrigation Districts may petition the State Water Resources Control Board to specify terms and conditions which will protect the prior water rights for power generation of the Districts at Tulloch Reservoir.

see  
order

(0430300)

17. This permit shall not be construed as conferring upon the permittee right of access to any points of diversion downstream of New Melones Dam.

(0000022)

18. No water shall be diverted under this permit from the Goodwin Dam Pool (point of diversion 2) until an agreement(s) has been executed between the Oakdale and South San Joaquin Irrigation Districts and the permittee's contractor(s) and/or the permittee providing for the joint use of Goodwin Reservoir.

(0430300)

19. No diversion under this permit from point of diversion 4, shall be made until a description of the specific location of the particular point of diversion and statement of the maximum rate of diversion and quantity of water to be diverted is filed with the State Water Resources Control Board.

(0360300)

20. The equivalent of the continuous flow allowance for any 30-day period may be diverted in a shorter time, provided there be no interference with other rights and instream beneficial uses; and provided further that all terms or conditions protecting instream beneficial uses be observed.

(0000027)

21. For the protection of water quality, no consumptive use diversion is authorized under this permit when the mean monthly total of dissolved solids concentration in the San Joaquin River at Vernalis is greater than 500 parts million or the dissolved oxygen concentration in the Stanislaus River is less than that specified in Water Quality Control Plan, San Joaquin River Basin 5C, State Water Resources Control Board, April 1975.

In the event that the water quality control plan is amended or superseded the foregoing water quality objectives shall be modified to conform to then current criteria.

(0000093)

22. Permittee shall file with State Water Resources Control Board an annual report showing a daily record of total dissolved solids at Vernalis, and a daily record of minimum dissolved oxygen level for the day at Ripon or at an alternate location approved by the Board. The record of total dissolved solids and minimum dissolved oxygen levels shall be submitted as a specific report for the New Melones Project.

(0110300)  
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23. For the protection of fish and wildlife, permittee shall, in conjunction with the permits issued pursuant to Applications 14858A, 14859, 19303 and 19304, provide such interim instream flows and shall conduct such instream flow and fisheries studies as are required by the June 1987 "Agreement Between California Department of Fish and Game and the United States Department of Interior, Bureau of Reclamation Regarding Interim Instream Flow and Fishery Studies in the Stanislaus River below New Melones Reservoir" on file with the State Water Resources Control Board.

(0390300)

24. Permittee shall conduct, in consultation with the California Department of Fish and Game, a study of the steelhead and resident trout fishery in the Stanislaus River downstream of Goodwin Dam. The study shall address the instream flow requirements of the steelhead trout and the resident trout populations in the Stanislaus River and it shall assess the effects of the New Melones Project operations on the fishery. The results of the study shall be submitted to the Board at the time of or prior to the submission of the results of the studies required by the June 1987 'Agreement Between California Department of Fish and Game and the United States Department of the Interior, Bureau of Reclamation Regarding Instream Flow and Fishery Studies in the Stanislaus River Below New Melones Reservoir' on file with the State Water Resources Control Board.

(0390300)

25. The State Water Resources Control Board reserves jurisdiction over this permit for the purpose of revising instream flow requirements for water quality objectives and fishery purposes and for establishing dry year criteria pursuant to studies to be conducted by the permittee and other parties in an effort to better define water needs.

(000M001)

26. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the Board concerning availability of water and the protection of beneficial uses of water in the Sacramento-San Joaquin Delta and San Francisco Bay. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing.

(0000094)

27. This permit is subject to prior rights. Permittee is put on notice that during some years water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento-San Joaquin Delta are such that in any year of water scarcity the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing.

(0000090)

28. No diversion is authorized by this permit when satisfaction of inbasin entitlements requires release of supplemental Project water by the Central Valley Project or the State Water Project.

a. Inbasin entitlements are defined as all rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the State Water Resources Control Board for maintenance of water quality and fish and wildlife. Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlement.

b. Supplemental Project water is defined as water imported to the basin by the projects, and water released from Project storage, which is in excess of export diversions, Project carriage water, and Project inbasin deliveries.

The Board shall notify the permittee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The Board will advise the permittee of the probability of imminent curtailment of diversion as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Project operators.

(0000091)

29. This permit does not authorize the use of any water outside the counties of origin which is necessary for the development of the counties.

(0000800)

30. Before making any change in the project determined by the State Water Resources Control Board to be substantial, permittee shall submit such change to the Board for its approval in compliance with Water Code Section 10504.5(a).

(0000119)

31. Prior to any diversion of water for municipal, domestic or irrigation purposes, Permittee shall consult with the Chief of the Division of Water Rights and develop a Water Management Program in conformance with State Water Resources Control Board requirements as appropriate. The proposed program shall be presented to the Board for approval. Board approval of the program shall also fulfill the requirements of Term 26 of Permits 16597 (Application 14858A) and 16600 (Application 19304).

All cost-effective measures identified in the Water Management Program shall be implemented in accordance with the schedule for implementation found therein.

(0000029)

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: JULY 18 1988

STATE WATER RESOURCES CONTROL BOARD

*Lloyd Johnson*  
for Chief, Division of Water Rights